

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

**CLARENCE COCROFT and TRU SOURCE
MEDICAL CANNABIS, LLC**

PLAINTIFFS

VS.

CASE NO. 3:23-cv-431-MPM-JMV

**CHRIS GRAHAM, in his official capacity
as the Commissioner of the Mississippi Department
of Revenue, et al.**

DEFENDANTS

DEFENDANTS' MOTION TO DISMISS

Defendants Christopher Graham, in his official capacity as Commissioner of the Mississippi Department of Revenue, Riley Nelson,¹ in his official capacity as Chief of Enforcement of the Mississippi Alcohol Beverage Control Bureau, and Dr. Daniel Edney, in his official capacity as State Health Officer for the Mississippi State Department of Health, move to dismiss Plaintiffs' complaint [Doc. 1] under Fed. R. Civ. P. 12(b)(6) and state:

1. Plaintiffs are a medical cannabis dispensary licensed in Mississippi and its owner. They challenge the constitutionality of, and seek to enjoin Defendants from enforcing, state laws and regulations restricting the advertising and marketing of medical cannabis in Mississippi.

2. Plaintiffs fail to state a claim upon which relief can be granted under the First Amendment because the commercial speech in which they wish to engage does not concern

¹ Riley Nelson replaced Pat Daily as Chief of Enforcement of the Alcohol Beverage Control Bureau of Enforcement on November 1, 2023. Pursuant to Fed. R. Civ. P. 25(d), Chief Nelson is automatically substituted as an official-capacity defendant in place of Chief Daily.

lawful activity under federal law. Indeed, it is a crime to sell or possess marijuana under the Controlled Substances Act.

3. Alternatively, the Court should dismiss this case because it cannot grant Plaintiffs' equitable relief that would facilitate activity that violates federal criminal law. And that is exactly the type of relief Plaintiffs seek here.

FOR THESE REASONS, and those set forth in their separate memorandum of authorities, Defendants respectfully request an order dismissing Plaintiffs' complaint [Doc. 1] with prejudice.

THIS the 20th day of December, 2023.

Respectfully submitted,

CHRISTOPHER GRAHAM, in his official capacity as Commissioner of the Mississippi Department of Revenue; RILEY NELSON, in his official capacity as Chief of Enforcement of the Mississippi Alcohol Beverage Control Bureau; and DR. DANIEL EDNEY, in his official capacity as State Health Officer for the Mississippi State Department of Health, DEFENDANTS

By: LYNN FITCH, ATTORNEY GENERAL
FOR THE STATE OF MISSISSIPPI

By: s/Wilson D. Minor
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CERTIFICATE OF SERVICE

I, Wilson D. Minor, Special Assistant Attorney General and one of the attorneys for the above-named defendants, do hereby certify that I have this date caused to be filed with the Clerk of the Court a true and correct copy of the above and foregoing via the Court's ECF filing system, which sent notification of such filing to all counsel of record.

THIS the 20th day of December, 2023.

s/Wilson D. Minor
WILSON D. MINOR